IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

THURSDAY, THE 4TH OCTOBER 2007 / 12TH ASWINA 1929

WP(C).No. 24430 of 2007(G)

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PETITIONER:

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T.N. ANANDAN, ASSISTANT TEACHER,
KATAMERI U.P. SCHOOL,KATAMERI,
KOZHIKODE.

BY ADV. SRI.R.K.MURALEEDHARAN

RESPONDENTS:

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1. THE DIRECTOR OF PUBLIC INSTRUCTIONS
TRIVANDRUM.

2. THE DEPUTY DIRECTOR OF EDUCATION,
KOZHIKODE.

3. THE ASSISTANT EDUCATIONAL OFFICER,
THODANNUR, VADAKARA , KOZHIKODE.

4. THE MANAGER, KATAMERI,U.P. SCHOOL,
KATAMERI, VADAKARA, KOZHIKODE.

ADDL.R5: G. VINODKUMAR, ASSISTANT TEACHER,
KATAMERI U.P. SCHOOL, KATAMERI,
VADAKARA, KOZHIKODE.

ADDLR6: K. VIJAYALAKSHMI, ASSISTANT TEACHER,
KATAMERI U.P. SCHOOL, KATAMERI,
VADAKARA, KOZHIKODE.

(IMPLEADED AS ADDL. RESPONDENTS 5 & 6 AS PER ORDER DATED 25/9/07 IN I.A.12748/07)

BY ADV. SRI.P.R.SREEJITH
SR.GOVERNMENT PLEADER M.R. SREELATHA.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 04/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

EXT.P1: COPY OF THE WARRANT ISSUED BY THE STATE, CHIEF COMMISSIONER OF BHARATH SCOUTS AND GUIDES DATED 25.1.2003.

EXT.P2: COPY OF THE G.O.(P) 403/02/G.EDN. DATED 4.12.2002.

EXT.P3: COPY OF THE STAFF FIXATION ORDER DATED 29.7.2005.

EXT.P4: COPY OF THE STAFF FIXATION FOR 2006-07 DATED 26.7.2006.

EXT.P5: COPY OF THE ARGUMENT NOTE SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DATED 26.10.2006.

EXT.P6: COPY OF THE REPRESENTATION DATED 3.8.2006.

EXT.P7: COPY OF THE ORDER DATED 23.7.2007.

EXT.P8: COPY OF THE COMMUNICATION FROM SECRETARY TO THE EDUCATIONAL OFFICES DATED 20..7.2004.

TRUE COPY

PA TO JUDGE.

**S. SIRI JAGAN, J.**

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**W.P.(C)No.24430 OF 2007**

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Dated this the 4th day of October, 2007

## JUDGMENT

The petitioner is working as Assistant Teacher in the 4th respondent's school. He claims to be holder of a warrant issued by the Bharat Scouts and Guides as a 'Cub Master' to work in the 4th respondent's school during 2005-2006. The petitioner and three other teachers, who were also having warrant, were given the benefit of Clause VI of Ext.P2 Government order and they were retained in the school on protection. During 2006-07, the petitioner and another senior teacher were denied the benefit of Ext.P2 Government order and they were deployed. But two junior teachers were given the benefit and retained granting protection in the school. The petitioner's statutory appeal before the 2nd respondent did not bear fruit. In the meanwhile the 2nd respondent issued Ext.P7 order deploying the petitioner to another school. The petitioner is challenging such deployment.

2. According to the petitioner Ext.P1 warrant issued to the petitioner by the Bharat Scouts and Guides is valid up to

25.1.09 and therefore, the petitioner is entitled to be retained as protected teacher in the school itself by virtue of Ext.P2 Government order.

3. In view of the contention raised by the petitioner that even if the deployment has to be made that has to be in accordance with seniority of the teachers, I had directed the petitioner to implead the other teachers also who have been impleaded as additional respondents 5 and 6. Notices have been served by special messenger on them. However, they have not cared to appear and contest the matter.

4. I have heard the learned Government pleader also. The learned Government pleader would submit that although Ext.P2 Government order gives a benefit to 'Cub Master' holding current warrant that cannot be extended to four excess teachers paying them salary when they are not needed in the school. Therefore, two teachers who were actually training the Scouts and Guides have been retained. That is why the petitioner has been deployed is the contention.

5. I have considered the rival contentions in detail. I am of opinion that the intention behind Ext.P2 is not to retain four teachers as 'Cub Masters' notwithstanding the lack of necessity for retaining such teachers for training the Scouts and Guides. The intention behind Ext.P2 is not merely to grant protection to the teacher, but to see that there is a trained teacher in the school for training the Scouts and Guides of the school. Therefore Ext.P2 can be relied upon only for the purpose of retaining such number of teachers as are necessary for the purpose of training the Scouts and Guides. Simply because all the four teachers have got current warrants and Ext.P2 grants the benefit of retention of excess teachers holding warrants, in the same school itself, all teachers cannot be retained without regard to the necessity of retaining such teachers. That being so, the deployment of teachers who are not needed for training scouts cannot be faulted. However, the deployment shall be strictly in accordance with the seniority. Therefore, the 3rd respondent is directed to consider the matter afresh and pass appropriate orders in accordance with the

above directions which shall be done within a period of one month from the date of receipt of a copy of this judgment. Till then status quo as on today shall be maintained.

**S. SIRI JAGAN, JUDGE**

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